



BELIZE

**INTERNATIONAL BANKING ACT
CHAPTER 267**

**REVISED EDITION 2011
SHOWING THE SUBSTANTIVE LAWS AS AT 31ST
DECEMBER, 2011**

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2011.

This edition contains a consolidation of amendments made to the law by Act No. 9 of 2010.

CHAPTER 267

INTERNATIONAL BANKING

ARRANGEMENT OF SECTIONS

PART I

Preliminary

1. Short title.
2. Interpretation.
3. International banking defined.

PART II

Licensing Requirements

4. Prohibition on carrying on International banking business without a licence.
5. Eligibility for the grant of a licence.
6. Contents of application.
7. Examination of applications.
8. Grant of licence.
9. Refusal of licence.
10. Duration of licence.
11. Other special conditions.
12. Display of licence.

13. Use of word “bank”, etc.
14. Duty to notify the Central Bank of change of address.

PART III

Types and Requirements of International Banking Licences

15. Types of licences.
16. Unrestricted “A” Class International banking licence.
17. Restricted “B” Class International banking licence.
18. Additional capital requirements.
19. Change of “B” Class Licence to “A” Class Licence.
20. Carrying on of International banking business by domestic and foreign banks.
21. Penalty for infringing capital requirements.
 - 21A. Deposit and Liquid Asset Requirement.
 - 21B. Single borrower limits of banks.
 - 21C. Extension of credit to insiders.
 - 21D. Transitional period of certain transactions, offences and enforceability of transactions.

PART IV

*Prohibited Activities and Disqualification of Directors,
Management and Workers*

22. Prohibited transactions.
23. Prohibition on the use of the words “bank”, etc.
24. Disqualification of directors, management and workers.

PART V

Revocation of Licences

25. Grounds for revocation of licence and voluntary surrender.
26. Consequences of revocation of licence.
27. Preventive actions by Central Bank in the interest of depositors, etc.
28. Appeal against revocation.

PART VI

*Accounting Records, Inspections, Audits,
Secrecy and Disclosure*

29. Keeping of accounting records.
30. Annual report and audit.
31. Periodic statements and other returns.
32. Inspection of records.
33. Special examinations.

34. Secrecy and disclosure.

PART VII

*Exemptions from Taxes, Duties and Exchange
Control, Winding -up, Dissolution and Abandoned Property*

35. Exemptions from taxes on profits and dividends.
36. Exemption from stamp duty.
37. Exemption from currency and exchange control.
38. Winding-up and dissolution of licensees.
39. Abandoned property.

PART VIII

Miscellaneous

40. General penalty for offences.
41. Fines, etc., to be placed to the credit of the Central Bank.
42. Authority for prosecutions.
43. Limitation of proceedings.
44. Civil remedies not affected.
45. Regulations.
46. Indemnification.
47. Procedure where none is laid down.
48. English to be the authentic text.

CHAPTER 267

INTERNATIONAL BANKING

11 of 1996.
34 of 2002.
9 of 2010.
S.I. 103 of 1996.
S.I. 115 of 2002.
S.I. 179 of 2004.

[26th July, 1996]

PART I

Preliminary

1. This Act may be cited as the International Banking Act.

Short title
34 of 2002.

2. In this Act, unless the context otherwise requires,

Interpretation.
34 of 2002.

“advertisement” means any form of advertising whether notified, published, mailed or electronically transmitted by any means or device,

- (a) in a newspaper, magazine, journal or other publication;
- (b) by the display of cinematographic notices;
- (c) by means of circulars, brochures, pamphlets or handbills;
- (d) by an exhibition of photographs or cinematographic films;
- (e) by way of sound broadcasting or television;
- (f) by way of computer networks, satellite and telephone;
or
- (g) by way of solicitation in any form.

34 of 2002.

“affiliate”, in relation to another person, means any person which controls, is controlled by or is under common control with, the first person, and includes any or all of the following,

- (a) a holding company, parent company or subsidiary company of that person;
- (b) a subsidiary of a holding company, or parent company of that person; or
- (c) a controlling shareholder of that person (if a company) which, either alone or in association with any person or persons, is entitled to exercise or control the exercise of ten *per centum* or more of the voting power at a general or special meeting of that person;

“capital” means the net worth of a person, determined in accordance with generally accepted accounting principles as the excess of assets over liabilities;

“Central Bank” means the Central Bank of Belize, established by the Central Bank of Belize Act, Cap. 262;

34 of 2002.

“control” means the power, directly or indirectly, to appoint or remove a majority of the Board of Directors or trustees of a company or to exercise ten *per centum* or more of the voting power at a general or special meeting of such company;

34 of 2002.

“demand deposit” means any deposit payable to a depositor upon the demand of such person, or with a maturity or withdrawable by the depositor upon advance notice of less than seven days; by cheque, draft or other similar means;

34 of 2002.

“deposit” means,

- (a) the unpaid balance of money received or held by a company in the usual course of business and for which it has given or is obligated to give credit to a

demand, passbook savings or time account or which is evidenced by its certificate of deposit, certificate of indebtedness or other similar obligation;

- (b) money received or held by a company or the credit given for money or its equivalent received or held by a company, in the usual course of business for a special or specific purpose regardless of the legal relationship thereby established, including but not limited to escrow funds, funds held as security for an obligation due to the company or others, funds deposited by a debtor to meet maturing obligations, funds held to meet its acceptance of letters of credit but does not include funds which are received by the company for immediate application to the satisfaction or reduction of indebtedness to the receiving company; or
- (c) an outstanding draft (including advice or authorisation to charge the company's balance at another company), cashier's cheque, money order, or other officer's cheque received by a company and which has been issued by another company in the usual course of business for any purpose, including but not limited to those issued in payment for services, dividends or purchases;

“deposit liabilities” means those liabilities of a bank represented by deposits held by that bank;

34 of 2002.

“director” means an individual occupying the position of director or alternate director of a company by whatever name he may be called and includes a member of a local board of a company whose head office is situated outside Belize or which is incorporated outside Belize;

34 of 2002.

“dollar” means a unit of currency of the United States of America;

“domestic bank” means a bank holding a valid banking licence under the Banks and Financial Institutions Act, Cap. 263;

“foreign bank” means a foreign company holding a valid banking licence under the laws of a country other than Belize;

“foreign company” means a company incorporated in a country other than Belize;

“foreign licensee” means a foreign bank holding a valid licence to carry on International banking business from within Belize, issued under this Act;

“foreign money” means a currency other than the Belize dollar;

“holding company” means any company which has control over any bank that is or becomes a licensee by virtue of this Act. A company has control over a bank if,

- (a) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote ten *per centum* or more of any class of voting shares of the bank; or
- (b) the company controls in any manner the election of a majority of the directors of the bank;

“international bank” means a company licensed under this Act to carry on the business of international banking;

“international banking” or “international banking business” shall have the meaning assigned to it in section 3 of this Act;

“licence” means a licence granted under this Act, and “licensed” shall be construed accordingly;

“licensee” means a company holding a valid licence under the provisions of this Act to carry on international banking business from within Belize;

“local company” means a company incorporated in Belize under the Companies Act, Cap. 250, or the International Business Companies Act, Cap. 270;

“local licensee” means a local company holding a valid licence granted under this Act to carry on international banking business from within Belize;

“Minister” means the Minister for the time being responsible for banks and banking who has been assigned such responsibility under section 41 of the Belize Constitution, Cap. 4;

34 of 2002.

“non-resident” means a person who is not a resident of Belize within the meaning of “resident” as hereinafter defined;

“officer” means the Chairperson or Deputy Chairperson of the board of directors, president, vice president, managing director, manager, financial controller, secretary or treasurer of a company, or any other individual who holds the title or performs any function similar to that of the holder of those offices;

34 of 2002.

“person” means an individual, sole proprietor, partnership, company, incorporated or unincorporated association, trust, estate, joint venture or any similar entity, organisation, company or other body of persons including a political sub-division of Government such as a City Council or a Town Board;

34 of 2002.

“resident” means,

- (a) a person ordinarily resident in Belize, irrespective of nationality, or a person who engages in a trade or business in Belize,

34 of 2002.

9 of 2010.

Provided that an Export Processing Zone Developer or an Export Processing Zone Business established under the Export Processing Zone Act, Cap. 280, or a Commercial Free Zone Developer or a Commercial Free Zone Business established under the Commercial Free Zone Act, Cap. 278, may conduct banking business with a licensee subject to the condition that all such transactions shall be reported to the Central Bank in such manner as the Central Bank may prescribe; or

- (b) any incorporated or other body, wherever incorporated, formed or organised, that is controlled by a person described in paragraph (a) of this interpretation; or

- (c) any company incorporated under the International Business Companies Act, Cap. 270 (other than a Public Investment Company) that holds or owns shares, debt obligations or other securities in a company incorporated under the Companies Act, Cap. 250, or has any of its shares, debt obligations or other securities beneficially owned or held by any person or company resident in Belize.

34 of 2002.

“subsidiary”, in relation to another company, means a company in which that other company is entitled to exercise or control the exercise of more than fifty *per centum* of the voting power at a general or special meeting;

“unsecured loans, advances and extensions of credit” means loans, advances and extensions of credit made without tangible security or realisable collateral or in respect of any advances and extensions of credit made with tangible security or realisable collateral, any part of which exceeds the fair or market value, as determined in a manner acceptable to the Central Bank, of the assets comprising the security given.

International bank-
ing defined.

34 of 2002.

3. “International banking” or “International banking business” means,

- (a) receiving, borrowing or taking up foreign money exclusively from non-residents at interest or otherwise on current account, savings account, term deposit or other similar account and which according and subject to arrangement is repayable on the cheque, draft, order, authority or similar instrument of the customer, and investing the foreign money so received by lending, giving credit or otherwise exclusively to non-residents; or
- (b) carrying on exclusively with non-residents such other activities as are customarily related or ancillary to international banking.

PART II

Licensing Requirements

4.-(1) No person shall carry on offshore banking business from within Belize unless he holds a valid licence granted under this Act.

Prohibition carrying on offshore banking business without a licence.

(2) A person who not being duly licensed under this Act,

- (a) acts as an offshore bank, whether on his own account, in partnership or otherwise;
- (b) holds himself out as being licensed as an offshore bank; or
- (c) takes or uses any name, title, addition, or description implying or likely to lead another person to believe that he is licensed as an offshore bank,

commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years, or to both such fine and term of imprisonment.

5.-(1) No licence may be issued under this Act to any person other than an eligible company.

Eligibility of the grant of a licence.

(2) A body corporate or proposed to be incorporated is an eligible company if,

- (a) it is incorporated or registered under the Companies Act, Cap. 250 or the International Business Companies Act, Cap. 270 as a company limited by shares, or it is a foreign bank;
- (b) its shares are in registered form and not in bearer form;
- (c) its memorandum and articles of association are acceptable to the Central Bank; and

- (d) its authorised and paid up capital accords with the requirements of sections 16 or 17, as the case may be, and section 18 of this Act.

(3) Notwithstanding anything contained in the Companies Act, Cap.250, or the International Business Companies Act, Cap. 270, no company may be incorporated or registered under those Acts, whose objects include the carrying on of offshore banking business from within Belize unless its incorporation or registration has been consented to by the Central Bank.

Contents of appli-
cation.

6.-(1) An eligible company desirous of carrying on offshore banking business from within Belize shall make an application to the Central Bank for the grant of a licence in the prescribed form.

(2) An application under subsection (1) of this section, shall show that the applicant is an eligible company. The Central Bank may also require that such application,

- (a) give particulars of, but not limited to,
- (i) the names and addresses of its directors and principal shareholders;
 - (ii) the ultimate beneficial ownership of the company or proposed company where the shareholders of record are, or are to be, corporations, trusts or other legal entities or organisations, or where the shareholders of record are acting as nominees for or under the direction of any other person notwithstanding anything to the contrary contained in any other law;
 - (iii) the shareholding structure and management of the company;
 - (iv) the financial standing of the company, if applicable;

- (b) contain a detailed business and financial plan of the company;
- (c) provide particulars of referees, guarantors and other third parties;
- (d) provide details of any subsidiary or affiliated company;
- (e) provide details of any overseas office which the company has or proposes to open;
- (f) provide the names and addresses of the external auditors of the company or proposed company, including the experience of the auditors in auditing banks;
- (g) provide such other information of a financial or other nature as the Central Bank may require in any general or particular case; and
- (h) be accompanied by a non-refundable fee as may from time to time be prescribed by the Central Bank.

34 of 2002.

(3) In addition to the requirements of subsection (2) of this section, a foreign bank shall further supply to the Central Bank when making its application, a written statement from the banking supervisory authority in its country of incorporation, and the banking supervisory authority in the country where its principal office is located if different, confirming that the authority has no objection to the application.

(4) An application for a licence and all documents submitted pursuant to this Act in support of the application shall be signed by the directors of the eligible company or proposed company making the application.

(5) Documents submitted to the Central Bank under subsection (4) of this section may be produced in evidence in any court of law or before the Appeal Board established under the Banks and Financial Institutions Act, Cap. 263.

Examination of applications.

7.-(1) On receipt of an application from an eligible company for a licence under this Act, the Central Bank may cause such investigation to be made of the applicant company or proposed company, its financial standing, and of any associates or affiliates of the applicant company or proposed company, as the Central Bank considers necessary to satisfy itself that the applicant meets the criteria of licensing and that it will conduct its business in a sound and prudent manner.

(2) Without prejudice to the generality of subsection (1) of this section, the Central Bank may require an examination or investigation to be made of any or all of the following,

- (a) the financial status and history of the applicant company and any of its directors, associates, principal shareholders or affiliates;
- (b) the character and experience of the directors and managers thereof;
- (c) the adequacy of its capital for the purpose of the business it intends to carry;
- (d) the earning prospects and viability of the proposed offshore bank;
- (e) the source of funds for capitalisation;
- (f) any other matter relating to the fitness and propriety of the applicant company, its directors, beneficial owners or management;
- (g) the adequacy of the applicant company's liquidity;
- (h) the adequacy of the applicant company's provision for non-performing and doubtful assets; and
- (i) the adequacy of the applicant company's accounting methods and records.

(3) For the purposes of this section, “associate”, when used to indicate a relationship with any person, means,

- (a) a company of which the person so referred to beneficially owns or controls, directly or indirectly, shares, or securities convertible into shares, carrying more than twenty-five *per centum* of the voting rights;
- (b) a partner of the person so referred to, acting on behalf of the partnership;
- (c) a trust or estate in which the person so referred to has a substantial beneficial interest or in respect of which he serves as a trustee or in a similar capacity.

(4) For the purposes of this section,

- (a) one company is affiliated with another company if that company is the subsidiary of the other or both are subsidiaries of the same holding company or each of them is controlled by the same person;
- (b) if two companies are affiliated with the same company at the same time, they are affiliated with each other at that time;
- (c) a company is the holding company of another if that other company is a subsidiary of the first-mentioned company;
- (d) a company is a subsidiary of another company if it is controlled by that other company.

(5) *[Repealed by Act 34 of 2002]*

8.–(1) The Central Bank may grant a licence under this Act upon the payment of the prescribed fee and subject to such terms and conditions as it may specify, or it may refuse to grant a licence.

Grant of licence.
34 of 2002.

(2) Where a licence is granted subject to the condition that the terms and conditions thereof may be varied subsequent to its issue, the Central Bank may at any time revoke any of the original terms and conditions or impose additional terms and conditions.

Refusal of licence.
34 of 2002.

9.—(1) Where the Central Bank refuses to grant a licence under this Act, it shall inform the applicant of the grounds for such refusal.

(2) Where the Central Bank states that the refusal to grant a licence was in the public interest, he need not give details of that refusal, or state any other ground.

Duration of licence.
34 of 2002.

10.—(1) A licence granted under this Act remains valid until revoked pursuant to this Act, but it is a condition of every licence that an annual fee be paid not later than the second day of January of each succeeding year by every class of licensee as prescribed by the Central Bank from time to time.

(2) Every licensee who defaults in paying the prescribed annual licence fee in respect of a licence granted under this Act by the due date and who continues to transact offshore banking business shall be liable to pay, upon being called upon by the Central Bank to do so, an amount equal to three times the amount of the unpaid fee.

Other special conditions.

11.—(1) It is a condition of every licence granted under this Act that,

- (a) a local licensee shall not change his name without the prior approval of the Central Bank;
- (b) a licensee shall not knowingly in the course of his business accept any deposit for the account of a beneficial owner who is a resident of Belize;
- (c) a local licensee shall not open outside of Belize a subsidiary, branch, agency or representative office without the prior written approval of the Central Bank;
- (d) the prior written approval of the Central Bank is required for the appointment of directors of a local licensee;

- (e) the Central Bank is notified as soon as a person ceases to be a director of a local licensee;
- (f) a licensee shall not amend its memorandum or articles of association without the prior approval of the Central Bank;
- (g) a licensee shall not merge or consolidate with any other licensee under this Act or the Banks and Financial Institutions Act, Cap. 263, or either directly or indirectly acquire any material portion of the assets of, or assume any material portion of the liabilities of, another licensee under this Act or the Banks and Financial Institutions Act, Cap. 263 or any other institution without the prior consent of the Central Bank.

34 of 2002.

(2) No person, either alone or with any associate or associates, shall, without the prior written consent of the Central Bank, acquire control over any voting shares of a local licensee where such acquisition would result in that person exercising control equivalent to, or in excess of ten *per cent*, twenty *per cent*, fifty *per cent* or seventy-five *per cent* of the total voting shares issued.

(3) Before giving an approval to any matter mentioned in subsection (2) of this section, the Central Bank may carry out such investigations and examinations as it deems necessary or proper.

(4) Where the Central Bank is of the opinion that the interests of a group of two or more persons are so interrelated that they should be considered as a single unit, the total holdings of that group shall be combined and deemed to be the holdings of a single person for the purposes of this section.

34 of 2002.

(5) In every case where the provisions of subsection (2) of this section have been violated, the Central Bank may issue an order requiring divestment of so much of the offending interest as is necessary to secure compliance with the provisions of subsection (2) of the section.

34 of 2002.

(6) The Central Bank may by notice in writing require any licensee to submit within such period and in such form as may be specified by

34 of 2002.

the Central Bank, a list of all shareholders on its register. The Central Bank may also require the licensee to provide the names of the ultimate beneficial owners of such shares.

34 of 2002.

(7) Every licensee or other person who acts in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars for each day during which the offence continues.

Display of licence.

12. A licensee shall display in a conspicuous place where he conducts business a copy of his current licence granted under this Act.

Use of word “bank”, etc.

13. Every licensee shall use as part of his description or title the word “bank” or one or more of its derivatives in any language.

Duty to notify the Central Bank of change of address.

14.—(1) It shall be a condition of every licence granted under this Act that the Central Bank shall be notified forthwith of any change of address of a licensee’s business office in Belize.

34 of 2002.

(2) Every person who fails to comply with the provisions of subsection (1) of this section shall pay, on being called upon by the Central Bank to do so, two thousand dollars for each day that it failed to notify the Central Bank of the change of address.

PART III

Types and Requirements of Offshore Banking Licences

Types of licences.

15. The following kinds of licenses may be granted under this Act, namely,

- (a) Unrestricted “A” Class Offshore Banking Licence;
and
- (b) Restricted “B” Class Offshore Banking Licence.

16.–(1) No company shall apply for, or obtain, or be eligible to hold, an “A” Class international banking licence under this Act unless it has at all times capital equivalent to not less than three million dollars or, in the case of a foreign bank, not less than twenty-five million dollars. The capital shall be expressed in dollars or in any other foreign currency as the Central Bank may approve in writing.

Unrestricted “A”
Class International
banking licence.

34 of 2002.

(2) The holder of an “A” Class international banking licence shall,

34 OF 2002.

- (a) establish, maintain and operate a business office in Belize;
- (b) transact international banking business through its business office in Belize without restriction on that business.

(3) For the purposes of this section and section 17 of this Act, a “business office” shall be a local physical presence in which the bank’s business is carried on.

17.–(1) No company shall apply for, or obtain, or be eligible to hold, a “B” Class international banking licence under this Act unless it maintains at all times capital equivalent to not less than one million dollars or, in the case of a foreign bank, not less than fifteen million dollars. The capital shall be expressed in dollars or in any other foreign currency as the Central Bank may approve in writing.

Restricted “B”
Class International
banking licence.

34 of 2002.

(2) The holder of a “B” Class international banking licence shall,

34 of 2002.

- (a) establish, maintain and operate a business office in Belize; and
- (b) transact only such international banking business as may be specified in the licence.

(3) In addition, the holder of a “B” Class international banking licence is prohibited from,

34 of 2002.

34 of 2002.

Additional capital requirements.

- (a) soliciting or accepting any deposits of money or any other valuable property from the general public; and
- (b) issuing to any depositor a cheque book or providing any current deposit or chequing account facilities for the transaction of his international banking business.

18.—(1) In addition to the capital requirements of sections 16 and 17 of this Act, the Central Bank may also require every local licensee to maintain capital in amounts not less than such percentage of that licensee's total assets and off-balance sheet contingencies, commitments, transactions and exposures, calculated in such a manner and using such methods as the Central Bank may prescribe.

The Central Bank may also at any time direct a particular licensee to maintain a higher percentage of capital in excess of the minimum specified above if it considers such higher percentage appropriate having regard to the financial condition of such licensee.

(2) For purposes of this section, fully paid-up and unimpaired capital and reserves, mean,

- (a) allotted, called up and fully paid and outstanding share capital, including any amounts which may be paid in excess of the par or stated value of the shares;
- (b) perpetual, irredeemable non-cumulative preferred shares, including shares convertible at the issuing licensee's option into common shares;
- (c) any other disclosed reserves created or increased by appropriations or retained earnings;
- (d) current retained earnings;
- (e) subordinated term debt subject to such terms, limits and restrictions as the Central Bank may from time to time specify;

Less,

- (f) goodwill and any other intangible assets, except such intangible assets which are readily marketable and have identifiable and consistent streams of cash flows which, in the determination of the Central Bank, may be included in capital under such terms and conditions as the Central Bank may specify; and
- (g) current year's losses as reported to the Central Bank irrespective of whether they have been published, and any accumulated losses not previously published.

(3) Whether any reserves or portion of any reserves have been created against identified assets, groups of assets or losses or, in respect of a deterioration in the value of particular assets of the licensee, such reserves or portion of reserves will be considered as being impaired and shall not be included in the capital base of the licensee for purposes of computing the minimum requirements provided in this section.

(4) Any bank which on and from the 5th October, 2002 does not comply with the requirements of this section shall, within six months of the said date, or such longer period as may be approved in writing by the Central Bank, maintain fully paid-up and unimpaired capital and reserves, as specified in this section.

(5) The Central Bank may require any or every licensee to comply with such minimum standards of prudent conduct of business as it may by Order prescribe, including, but not limited to, standards relating to liquidity, concentration of risk and provisions against non-performing and doubtful assets.

34 of 2002.

19.-(1) The holder of a "B" Class international banking licence granted under section 17 of this Act may, at any time during the term of the licence, apply to the Central Bank for a change in licence to an "A" Class international banking licence.

Change of "B"
Class Licence to
"A" Class Li-
cence.
34 of 2002.

(2) In reviewing an application under subsection (1) of this section, the Central Bank shall require such information as it deems necessary and shall have regard to the public interest and such other considerations as it thinks fit to take into account.

34 of 2002.

(3) The Central Bank may approve an application submitted pursuant to subsection (1) of this section subject to such terms and conditions as it thinks fit; including, but not limited to, an increase in capital to comply with the requirements of an “A” Class international banking licence.

Carrying on of International banking business by domestic and foreign banks.

34 of 2002.

20.—(1) A domestic bank licensed under the Banks and Financial Institutions Act, Cap. 263 may carry on international banking business from within Belize only through a separately capitalised subsidiary company which has been granted an international banking licence under this Act.

(2) A foreign bank may carry on international banking business from within Belize either through a locally incorporated subsidiary which has been granted an international banking licence under this Act or through a branch which is established and administered separately and independently from any branch or subsidiary which may be carrying on banking business licensed under the Banks and Financial Institutions Act, Cap. 263.

Penalty for infringing capital requirements.

34 of 2002.

21. The capital requirements prescribed in sections 16, 17 and 18 of this Act, shall continue during the subsistence of a licence and a licensee who fails or neglects to maintain such requirements shall pay, on being called upon by the Central Bank to do so, three thousand dollars for each day that it failed to comply with the provisions of the said sections.

Deposit and Liquid Asset Requirement.

34 of 2002.

21A.—(1) Every bank shall maintain an account in its name with the Central Bank a minimum deposit of one hundred thousand dollars on terms and conditions specified by the Central Bank, or such other sum as may from time to time be specified by the Central Bank by thirty days’ prior notice in writing.

(2) Every bank shall maintain a minimum aggregate holding of approved liquid assets, which shall be at least twenty-four *per centum* of its total deposit liabilities, or as prescribed by the Central Bank.

(3) For the purpose of this section “approved liquid assets” means assets that are freely and readily convertible into cash without significant loss, free from any charge, lien or encumbrance whatsoever and includes all or any of the following,

- (a) notes and coins which are legal tender in Belize and in the United States of America and such other foreign notes and coins as the Central Bank may specify in writing;
- (b) net balances and deposits held with other banks in Belize not exceeding one year to maturity but where such balances are negative they will be subtracted from the approval liquid assets;
- (c) cheques and other sight drafts drawn on banks and in the course of collection;
- (d) balances and deposits at call and at short notice not exceeding one year to maturity held with banks and financial institutions abroad and denominated in currencies freely convertible into dollars net of any or all of the following balances due within one year,
 - (i) balances due to banks and financial institutions abroad;
 - (ii) balances due to head office and other branches abroad;
 - (iii) balances due to holding company or parent company or any company that owns the majority of the shares of a bank or financial institution;
- (e) inland bills of exchange which are financial commercial transactions, which bear the acceptance or confirmation of acceptance of another bank and which are payable

in not more than one year from the date on which they were drawn or accepted;

- (f) treasury bills and other securities issued or guaranteed by the Government of Belize and maturing in not more than one year; and
- (g) treasury bills and other securities which have been issued or guaranteed by governments abroad, which are marketable in money and capital markets abroad, which mature in not more than one year and which are denominated in currencies freely convertible into dollars.

(4) The Central Bank may, by thirty days' prior notice in writing to a licensee, require any licensee to maintain a minimum aggregate holding of liquid assets, which shall be equivalent to such value as the Central Bank may determine.

(5) Any bank which fails to maintain a deposit with the Central Bank as required by subsection (1) of this section shall be liable to pay, on being called upon by the Central Bank to do so, a sum of one thousand dollars for each day that it fails to maintain such deposit.

(6) Any bank which during any quarter fails to maintain a minimum aggregate holding of liquid assets in accordance with this section shall be liable to pay, on being called upon in writing to do so by the Central Bank, a sum equivalent to ten *per centum* of the amount by which its actual aggregate holding of liquid assets has fallen short of its required aggregate holdings, and such charge shall be payable to the Central Bank on such day as may be fixed by the Central Bank.

(7) The Central Bank may vary, by thirty days' prior notice in writing to a licensee, the method to be used in computing the liquid assets requirement specified in subsection (2) of this section.

21B.—(1) The aggregate of unsecured loans, advances and extensions of credit granted by a bank to a person and not secured by collateral having

Single borrower
limits of banks.

a marketable value as determined by reliable and current valuations at least equal to the total amount of the loan, advances and extensions of credit shall not exceed fifteen *per centum* of the fully paid-up and unimpaired reserves of a licensee.

(2) Except with the prior written approval of the Central Bank, total loans, advances and extensions of credit by a bank to a person shall not exceed twenty-five *per centum* of the fully paid-up and unimpaired capital and reserves of a licensee. These limitations shall be separate from and in addition to the limitations contained in subsection (1) of this section.

(3) For the purposes of subsection (1) and (2) of this section,

- (a) the term “loan, advances and extensions of credit” shall include all loans, advances, overdrafts, holdings of papers and all direct and indirect obligations of the borrower as well as off-balance sheet commitments, such as acceptances and guarantees on behalf of the borrower, underwriting facilities, endorsements, placements, documentary credits issued, performance bonds and other contingent liabilities on behalf of such person or any other facility or instrument that the Central Bank may specify in writing; and
- (b) the term “person” shall include any group of persons which is under the control of one and the same person.

(4) The limitations contained in subsection (1) or (2) of this section, shall not apply to,

- (a) loans, advances and extensions of credit to the Government of Belize;
- (b) loans, advances and extensions of credit fully secured by bonds, debentures, notes and treasury bills of the Government of Belize or by other such obligations fully guaranteed as to principal and interest by the Government of Belize;

- (c) loans, advances and extensions of credit fully secured by the Government of Belize; or
- (d) loans, advances and extensions of credit fully secured by a segregated and pledged deposit account in the lending bank.

(5) A licensee shall not grant any loans, advances or extensions of credit against the security of its own shares.

Extensions of credit to insiders.

21C.—(1) A bank shall not grant or permit to be outstanding unsecured loans, advances and extensions of credit of an aggregate amount in excess of two *per centum* of the aggregate of its fully paid-up unimpaired capital and reserves or give any financial guarantees in excess of such amount without security, or incur any other liability in excess of such amount without security,

- (a) to or on behalf of any one of its directors, officers or principal shareholders, whether such loans, advances and extensions of credit are obtained by or on account of such director, officer or principal shareholder jointly or severally; or
- (b) to or on behalf of any partnership, company or any similar entity or organisation in which the bank or any one or more of its directors, officers or principal shareholders as described in subsection (2) of this section, is interested whether as a partner, director, officer or guarantor.

(2) For purposes of this section, “principal shareholder” means a person who directly or indirectly or acting through or in concert with one or more persons, owns, controls or has the power to vote more than ten *per centum* of the voting power at any general or special meeting of a bank. Shares owned or controlled by a spouse, son, daughter, mother or father of a person are considered to be held by that person.

(3) The aggregate of all loans, advances and extensions of credit described in this section shall not exceed fifty *per centum* of the fully paid-up and unimpaired capital and reserves of a licensee.

21D.-(1) Any bank to which sections 21B and 21C of this Act are applicable and which, prior to 5th October, 2002 entered into any transaction which does not comply with the said sections shall, within six months after such commencement, submit a statement thereof to the Central Bank and shall liquidate all such transactions within such reasonable time as shall be determined by the Central Bank but in no case later than one year from the commencement of the said Act.

Transitional period of certain transactions, offences and enforceability of transactions.

(2) Any person who fails to comply with the provisions of section 21B or 21C of this Act shall, upon being called in writing to do so by the Central Bank, pay a penalty of five thousand dollars for each day of such failure to comply.

(3) Nothing in section 21B or 21C of this Act, shall be deemed to prevent a bank from enforcing any transaction referred to therein against any person who is a party thereto or against whom it could have been otherwise enforced.

PART IV

Prohibited Activities and Disqualification of Directors, Management and Workers

22.-(1) A licensee shall not,

Prohibited transactions.

- (a) transact any international banking business with any person or entity who is a resident of Belize unless such person or entity,
 - (i) is a bank licensed under the Banks and Financial Institutions Act, Cap. 263 or under this Act which is transacting business customarily carried on with foreign banks outside of Belize;
 - (ii) is transacting such business in the capacity of agent, nominee, legal representative or other similar capacity exclusively for and in respect of

non-residents where such persons or entity is not the beneficiary of such business transactions;

34 of 2002.

(iii) is the Government of Belize or a public statutory corporation wholly owned by the Government of Belize; or

(b) transact any business otherwise than in accordance with the terms and conditions of the licence and the provisions of this Act or any regulations made thereunder.

(2) For the purpose of subsection (1)(a)(ii) of this section, the onus of establishing residency and beneficial interest in such transactions to the satisfaction of the Central Bank shall be on the licensee.

(3) Every person or licensee who acts in contravention of this section commits an offence and is liable on summary conviction to a fine equal to two thousand dollars for each day during which the offence continues or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment.

Prohibition on the use of the words “bank”, etc.

34 of 2002.

23.—(1) Except with the prior written approval of the Central Bank, no person other than the holder of a valid licence granted under this Act or under the Banks and Financial Institutions Act, Cap. 263, shall,

(a) use the word “bank”, “savings”, “savings and loan” or any of their derivatives in any language, or any other word indicating the carrying on of banking business, or international banking business, in or from within Belize, in the description or title under which such person is incorporated or carrying on business in or from within Belize; or

(b) make, or continue to make, any representation in any billhead, printed form, letter, paper, notice, advertisement, solicitation, computer network, satellite or telephone transmission, or in any other manner

whatsoever, that such person is carrying on banking business or international banking business in or from within Belize.

(2) A licensee shall not,

- (a) in the conduct of his international banking business, use or operate under a name other than the name under which he is licensed under this Act;
- (b) use, or operate under, a name which so closely resembles or is identical to the name of any company, firm, business house, or other financial entity or institution whether within or outside Belize as is likely to mislead or deceive; or
- (c) use, or operate under, a name which is calculated to suggest falsely that such licensee has a special status in relation to, or derived from, the Government of Belize, or has the official backing of or acts on behalf of, the said Government or of any department or official thereof or is recognised in Belize as a national or Central Bank.

(3) No licensee shall engage in advertising practices that are likely to mislead or deceive concerning,

- (a) the relationship of the licensee with the Government of Belize, the Central Bank or any department or office thereof;
- (b) the true interest rate paid on deposits or charged on credit;
- (c) the true returns on the management of investments;
- (d) the insured or guaranteed status of deposits or other liabilities or of investments managed by it; or
- (e) the financial condition of the institution.

(4) Every person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment.

(5) In this section, the term “printed form” includes a form of which copies are produced by photocopying or by any duplicating or reproduction process, including but not limited to letterpress, photographic, lithographic or stencilling, or any other similar process.

Disqualification of directors, management and workers.

34 of 2002.

24.—(1) No person shall apply for, or obtain, or be eligible, or continue to be employed, as a director, officer, manager, secretary or other worker of any licensee licensed under this Act, without prior approval in writing of the Central Bank if,

- (a) he has been a director of, or directly or indirectly involved in, the management of a bank which has had its licence revoked in accordance with section 25 and section 27 of this Act or section 7 of the Banks and Financial Institutions Act, Cap. 263, or in accordance with the banking laws of another country;
- (b) he has been dismissed from the management of a bank for an act or conduct involving dishonesty or fraud;
- (c) he has been convicted in Belize or elsewhere for any offence triable on indictment in Belize;
- (d) he is or becomes bankrupt, suspends payment to, or compounds with, his creditors;
- (e) he is, in the opinion of the Central Bank, not a fit and proper person to work or continue to work for a licensee; or
- (f) he is an approved auditor for the licensee as provided in section 30 of this Act, or is an officer of a company which is an approved auditor.

34 of 2002.

(2) Every person who contravenes the provisions of subsection (1) of this section, commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.

(3) Every director and officer of a licensee, in exercising the powers and discharging the duties of that person's office, shall,

34 of 2002.

- (a) act honestly and in good faith with a view to securing the best interests of the licensee; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(4) A director or officer of a licensee who,

34 of 2002.

- (a) is a party to a material loan, contract or transaction, or a proposed material loan, contract or transaction with the licensee; or
- (b) is a director or officer of, or has a material interest in or a material relation to, any person who is a party to a material loan, contract or transaction, or a proposed material loan, contract or transaction with the licensee, shall disclose in writing to the licensee the nature and extent of the material interest or relation.

(5) The disclosure required by subsection (4) of this section shall be made by the director or officer when the matter or proposed contract comes or ought reasonably to have come to the attention of the director or officer.

34 of 2002.

(6) A general notice in writing to the board of directors by a director or officer, disclosing at the time such person assumes or is appointed to his office and from time to time (but in no event less than annually) every material commercial, financial, agricultural, industrial or other business or family interest that such person has at the time, and stating that the person

34 of 2002.

is to be regarded as interested in any material contract between the licensee and any person named in the disclosure, shall be a sufficient declaration of material interest in relation to any such contract.

34 of 2002.

(7) A director or officer who has a material interest or a material relation within the scope of subsections (4) to (6) of this section, shall leave any meeting at which the matter is discussed, and shall refrain from voting on any matter related thereto which becomes the subject of action by the board of directors of the licensee, provided that such an interest, if so disclosed, shall not disqualify the interested person for purposes of constituting a quorum.

34 of 2002.

(8) For the purposes of subsections (4) and (6) of this section, a director or officer shall be deemed to have a material interest in, or material relation to, another person, if that director or officer, or the spouse, parent, sibling or child of such director or officer,

- (a) in the case of another person who is a company, partnership or similar entity, is or during the last fiscal year has been an officer, director or partner of such company, partnership or entity, or owns or has the power to vote, or during the last fiscal year has owned or held the power to vote, ten *per centum* or more of any class of shares or other equity interest of such company, partnership or entity;
- (b) owes money to or otherwise is indebted to, or is a guarantor of any obligation of such other person in an amount exceeding two *per centum* of the fully paid-up and unimpaired capital and reserves of the licensee;
- (c) engages or during the last fiscal year has engaged in any transaction with such other person in an amount which exceeds ten *per centum* of the director's or officer's net worth; or
- (d) is the spouse, parent, sibling or child of any person described in paragraphs (b) or (c) of this subsection.

(9) Where a director or officer fails to disclose a material conflict of interest in accordance with this section, the Central Bank may request the licensee to suspend the director or officer from office for any period not exceeding one year. 34 of 2002.

(10) A director or officer who contravenes subsection (4) or (6) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment. 34 of 2002.

(11) Any officer of a licensee who with intent to deceive, 34 of 2002.

(a) makes any false or misleading statement or entry or omits any statement or entry that should be made in any book, account, report or statement of the licensee; or

(b) obstructs or attempts to obstruct the proper performance by an auditor of his duties in accordance with the provisions of this Act, or a lawful examination of the licensee by a duly authorised examiner appointed by the Central Bank under section 32 or 33 of this Act,

commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

PART V

Revocation of Licences

25.-(1) The Minister may, on recommendation from the Central Bank, revoke a licence if the licensee so requests or if, 34 of 2002.

Grounds for revocation of licence and voluntary surrender.

(a) the licensee does not within six months after the grant of the licence, or such longer period as the Central Bank may approve in writing, commence international banking business;

34 of 2002.

- (b) the licensee fails to comply with any term or condition of his licence;
- (c) the licensee is in breach of any duty or obligation imposed upon him by this Act or commits an offence under this Act or any regulations made thereunder;
- (d) the licensee fails to comply with any provision of this Act, or any directive or Order issued by the Minister or the Central Bank under this Act;
- (e) the licensee ceases to carry on international banking business;
- (f) the licensee goes into liquidation or is wound-up or otherwise dissolved;
- (g) the licensee fails to pay the prescribed annual licence fee as provided for under section 10 of this Act; or
- (h) the circumstances specified in section 27 (1) of this Act exist.

34 of 2002.

(2) A licensee shall not be allowed to surrender his licence voluntarily and request subsequent revocation unless he produces evidence satisfactory to the Central Bank that he has repaid all of the deposits and other liabilities and has transferred all his assets held or administered by him and that he has ceased carrying on all other forms of international banking business from within Belize.

Consequences of
revocation of li-
cence.

26.—(1) Where a licence is revoked under section 25 of this Act, the licensee shall forthwith surrender the licence and every copy thereof in his possession to the Central Bank and the Central Bank may appoint any person it deems suitably qualified to properly carry out the functions of an administrator or liquidator with respect to the affairs of the licensee.

Every such person so appointed shall have full power and authority to perform the functions of the administrator or liquidator for that licensee without further action on the part of the Central Bank and with such legal

rights and duties under the laws of Belize as may be held by the Central Bank acting in such capacity.

(2) The Central Bank shall promptly give notice of the revocation of the licence and of the appointment of the administrator or liquidator (if any) to the licensee as well as to the creditors, depositors, directors, shareholders, customers, and employees of the licensee and to the relevant authorities in Belize and abroad.

27.—(1) If in the opinion of the Central Bank, a licensee is carrying on his business in a manner detrimental to the public interest or to the interest of depositors, creditors and other customers, or has insufficient assets to cover his liabilities, or is contravening any of the provisions of this Act, or regulations made thereunder, the Minister may, on the recommendation of the Central Bank, take one or more of the following measures from time to time as may seem to him necessary,

Preventative actions by Central Bank in the interest of depositors, etc.

- (a) revoke the licence pursuant to section 25 of this Act;
- (b) impose new conditions upon the licence or amend or revoke existing conditions;
- (c) require the removal or substitution of any director or officer of the licensee;
- (d) at the expense of the licensee, appoint a person, who, in his opinion, has adequate training and experience, to advise the licensee on the proper conduct of his affairs and to report to him thereon within such time as may be specified; or
- (e) require the licensee forthwith to take such measures as he may consider necessary in relation to his business.

(2) If a licensee refuses or fails to take any measure required under subsection (1) (e) of this section, he commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars in respect of every day during which the offence continues.

Appeal against re-
vocation.

28.—(1) Any licensee who is aggrieved by the revocation of his licence under this Act may within twenty-one days of the communication of the decision to him appeal to the Appeal Board established under Part X of the Banks and Financial Institutions Act, Cap.263 and thereafter the provisions of that Part in that Act, establishing the Appeal Board, shall *mutatis mutandis* apply to appeals under this Act.

(2) Any party aggrieved by a decision of the Appeal Board may appeal to the Court of Appeal on the ground that the decision was erroneous on a point of law and the Court may affirm or set aside the decision appealed against, and may remit the matter to the Appeal Board for rehearing and determination by it.

PART VI

Accounting Records, Inspections, Audits, Secrecy and Disclosure

Keeping of ac-
counting records.
34 of 2002.

29. A licensee shall keep his international banking business records in such a manner as will enable his accounts and records to be conveniently and properly audited and examined pursuant to the provisions of this Part of this Act.

Annual report and
audit.
34 of 2002.

30.—(1) Every local licensee shall appoint annually an approved auditor whose duties shall be to make a report upon the annual balance sheet, profit and loss accounts and statement of cash flows in respect of his international banking business, and in every such report the auditor shall state whether, in his opinion, proper books and records of account have been kept, whether the balance sheet and other accounts and financial statements are in agreement with the licensee's books and records, and whether the balance sheet, profit and loss accounts and statement of cash flows are complete and fair and properly drawn up and whether it exhibits a true and correct statement of the financial condition and affairs of the licensee, and in any case in which the auditor has called for explanation or information from the officers or agents of the licensee, whether the same was found to be satisfactory.

(2) The report of an approved auditor under subsection (1) of this section, along with copies of the balance sheet, profit and loss accounts, statement of cash flows, supplementary notes and management letter, shall be sent by the licensee to the Central Bank within four months after the close of the licensee's financial year, or such longer period as the Central Bank may in writing approve.

(3) In the case of a foreign licensee, the consolidated audit report and financial statements of the foreign bank as stipulated in subsection (2) of this section shall be sent to the Central Bank within the time stipulated therein.

(4) Every licensee who fails to comply with the requirements of subsection (2) or (3) of this section, shall be liable, upon being called upon in writing by the Central Bank to do so, to pay a penalty of five thousand dollars for each day of such failure to comply except where an extension to the period has been granted in writing by the Central Bank.

34 of 2002.

(5) A copy of the report of the auditor shall bear on its face the certificate of the auditor and shall be displayed by every licensee in a conspicuous place in his business office in Belize.

(6) No person having an interest in any local licensee other than as a depositor, and no director, officer or agent of the licensee or of an affiliate of the licensee shall be eligible for appointment as an approved auditor for that licensee; and any person appointed as such auditor to any licensee who subsequently acquires such interest or becomes a director, officer or agent of that licensee shall cease to be auditor.

(7) If the Central Bank, on reasonable grounds, is not satisfied with the annual report of an auditor appointed by a local licensee, it may appoint another auditor to make an independent audit report, and in every such case the Central Bank shall fix the remuneration to be paid by the licensee to such auditor appointed under this subsection.

(8) If a licensee fails to appoint an approved auditor under this section, the Central Bank may appoint an auditor who shall have all the powers and duties of an auditor appointed by the licensee to carry out an audit.

The Central Bank shall fix the remuneration to be paid by that licensee to such auditor appointed under this subsection.

34 of 2002.

(9) If the auditor appointed under this section becomes aware, during the course of his examination of the licensee or at any other time, that the licensee is conducting his affairs in an unsafe and unsound manner, is insolvent or may soon become insolvent, is in contravention of this Act or any terms and conditions that may be attached to his licence, is involved in or is aiding or abetting fraudulent or criminal activity, he shall forthwith report such findings to the Central Bank. Any auditor making such report shall not be legally liable for such disclosure if he acts in good faith.

(10) Any auditor who fails to report his findings to the Central Bank as required under subsection (9) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

(11) For the purpose of this section, an approved auditor is an auditor who is a member of one of the professional bodies for the time being declared by the Central Bank by notice in the *Gazette* to be approved for such purposes.

34 of 2002.

(12) A licensee shall forthwith give notice to the Central Bank if the licensee,

- (a) proposes to give special notice to its shareholders of an ordinary resolution removing an auditor before the expiration of his engagement; or
- (b) gives notice to its shareholders of an ordinary resolution replacing an auditor at the expiration of his engagement with a different auditor, or if a person ceases to be an auditor of the institution otherwise than in consequence of such a resolution.

34 of 2002.

(13) An auditor or a licensee appointed under this section shall forthwith give written notice to the Central Bank if he,

- (a) resigns before the expiration of his engagement;
- (b) does not seek to be re-appointed, or
- (c) decides to include in his report on the licensee's accounts any qualification that indicates that the licensee may be carrying on its business in a manner detrimental to the interests of its depositors or of its creditors, or may have insufficient assets to satisfy its liabilities as they mature or become due, or may be contravening any of the provisions of this Act.

(14) A licensee or auditor who fails to comply with this section commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment. 34 of 2002.

(15) No duty to which an auditor may be subject shall be regarded as contravened by reasons of his communicating in good faith to the Central Bank, whether or not in response to a request made by it, any information about a licensee or opinion pursuant to an obligation of the auditor under this Act. 34 of 2002.

(16) This section applies to any matter of which an auditor becomes aware in his capacity as auditor and which relates to the business or affairs of the licensee or any affiliate of the licensee. 34 of 2002.

31.-(1) Every licensee shall, in respect of his operations from within Belize, submit to the Central Bank such returns and information as the Central Bank may prescribe within such time as may be required. Periodic statements and other returns.

(2) The Central Bank may from time to time request any information which it may require for the purposes of this Act from any licensee with respect to its operations, the affairs of a particular person and those of its holding company and its affiliates in Belize or abroad, where in relation to its holding company and its affiliates in Belize or abroad, such information pertains directly to the business and financial relationship between the licensee and such holding company or its affiliates in Belize

or abroad. The licensee shall supply such information within such period and in such manner as the Central Bank may require.

34 of 2002.

(3) Any licensee or other person who has reasonable cause to believe that any officer or other person participating in the affairs of the licensee may have committed or aided in the commission of an offence punishable under the Criminal Code, Cap.101, or other laws of Belize shall submit a report thereof to the Central Bank within such time and in such manner, and containing such information, as the Central Bank may specify.

34 of 2002.

(4) Every licensee who fails to comply with the provisions of subsections (1), (2) or (3) of this section, commits an offence and shall on summary conviction forfeit to the Central Bank a penalty of one thousand dollars for every day the offence continues.

(5) Every director, officer or employee of a licensee who knowingly or wilfully supplies false or misleading returns or information to the Central Bank under this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.

Inspections of records.

34 of 2002.

32.—(1) The Central Bank shall have the power to examine every licensee as often as the Central Bank deems necessary. The Central Bank also shall have that power to conduct an examination of any holding company or affiliate of the licensee but only in so far as shall be necessary to examine the business, managerial and financial relationships between each licensee and its affiliates and the effect of such relationships on the financial condition and operations of the licensee.

(2) The Central Bank shall also have the authority to obtain particulars of the names and addresses of the ultimate beneficial owners of a licensee in cases where the shareholders of record are corporations, trusts or other legal entities or organisations, or where the Central Bank has reason to believe that the shareholders of record are acting as nominees for or under the direction of any other person, notwithstanding anything to the contrary contained in any other law.

(3) The Central Bank may appoint examiners to carry out the performance of its functions under this section. An examiner making the examination of a licensee under subsection (1) of this section shall have the power to require the production of any books, records, accounts, writings and documents of any kind, as well as any data or information held, stored or transmitted by electronic means. 34 of 2002.

(4) The Central Bank may assess any licensee it examines under this section such fees and costs as may be necessary to defray the cost of examination; provided that, such fees and costs are determined on a fair and equitable basis taking into account the amount of assets and deposits, and the activities of the licensee being examined, and do not unreasonably discriminate between licensees of a similar character or among classes of similar licensees. 34 of 2002.

(5) Every licensee, holding company or affiliate of a licensee and every officer or agent of a licensee, its holding company or affiliate shall produce for the examination of any examiner appointed by the Central Bank such books, records, accounts, writings and documents of any kind, and supply the examiner with such other oral information as may be required by such examiner in the performance of the functions specified in subsections (1) and (3) of this section. 34 of 2002.

(6) Any licensee, holding company or affiliate of a licensee or any employee of such licensee, who contravenes the requirements of subsection (5) of this section, or who obstructs or impedes the performance by any examiner or officer appointed by the Central Bank of the duties specified in subsection (1) and (3) of this section, shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment. 34 of 2002.

33.—(1) The Central Bank may at any time and without notice appoint one or more of its examiners or other qualified persons to carry out a special examination under conditions of secrecy of the books and affairs of any licensee whether in Belize or elsewhere, Special examinations.

- (a) where it has reason to believe that such licensee may be carrying on his business in a manner detrimental to the interests of his depositors, creditors or other customers, or is not operating in a sound financial condition or may have insufficient assets to cover his liabilities to the public or may be, either in Belize or elsewhere, contravening any of the provisions of this Act or regulations made thereunder;
- (b) if the licensee suspends payment to depositors or creditors or informs the Central Bank of his intention to do so; or
- (c) if the Central Bank has reasonable grounds to believe that the licensee is involved in fraudulent or criminal activity, or is aiding or abetting others in committing fraudulent or criminal activity or is otherwise conducting his business in a manner detrimental to the public interest.

(2) Subject to section 32 (3) of this Act, every licensee of whom an examination has been ordered under subsection (1) of this section shall produce to the examiners, or other persons appointed under this section, at such times and in such places as the examiners or persons may specify, all records, books, accounts, minutes, cash, securities, vouchers and other documents and assets in whatever form in the possession or custody of the licensee or of which he is entitled to possession or custody relating to his assets, liabilities and business generally, and shall give, within such time as the examiners or persons may specify, such oral information concerning his business as may be required.

(3) As soon as may be practicable after the conclusion of an examination under this section, the examiners or persons appointed to carry out the examination shall submit a full report on such examination to the Central Bank.

(4) The Central Bank may order that all expenses of, and incidental to, a special examination under subsection (1) of this section, shall be paid by the licensee examined.

(5) Every person who,

- (a) refuses or fails or neglects to produce or obstructs or wilfully delays the production of any record, book, document, asset or information required under this section shall pay to the Central Bank, upon being called upon to do so, a penalty of two thousand dollars for each day of the failure to comply; or
- (b) knowingly produces any record, book, document or information required under this section which is false or misleading in any material particular commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

34 of 2002.

(6) Any director, officer or employee of a licensee who knowingly or wilfully supplies false or misleading information to the persons authorized to carry out an examination in terms of this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.

34.—(1) No person shall disclose any information relating to the affairs of a licensee or any customer of a licensee which he has acquired in the performance of his duties or the exercise of his functions under this Act except where such information,

Secrecy and disclosure.

- (a) is lawfully required or permitted by any law or court of competent jurisdiction in Belize;
- (b) is in respect of the affairs of the licensee or a customer of the licensee with the authority of the licensee or the customer of the licensee which has been voluntarily given, as the case may be; or
- (c) is disclosed by the Central Bank to a banking regulatory or supervisory authority outside of Belize

where such information is considered necessary for that authority to exercise functions similar to those of the Central Bank pursuant to this Act including any information which will assist that foreign authority in its consolidated supervision of a banking group which controls or is affiliated with the licensee.

(2) *[Repealed by Act 34 of 2002]*

(3) Every person who contravenes subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months, or to both such fine and term of imprisonment.

PART VII

Exemptions from Taxes, Duties and Exchange Control, Winding-up, Dissolution and Abandoned Property

35.—(1) Notwithstanding anything contained in any other law,

- (a) no income tax or any other direct or indirect tax or impost, shall be levied in Belize upon the profits or gains of a licensee, or upon any interest or dividends earned by a licensee in respect of the international banking business he carries on from within Belize;
- (b) no income tax or any other direct or indirect tax or impost shall be levied or collected in Belize in respect of any dividends, interest or other returns from any shares, securities, deposits or other borrowings of a licensee or any assets or property managed by the licensee if the dividends, interest or other returns are in respect of shares, securities, deposits or borrowings or assets or property beneficially owned by a person who is not a resident of Belize.

Exemptions from taxes on profits and dividends. 34 of 2002.

(2) For the purpose of subsection (1)(b) of this section, the onus of establishing ownership to the satisfaction of the Central Bank shall be on the licensee.

36. Bills of exchange and promissory notes payable on demand and any other document, instrument or certificate executed by or in connection with an international banking business whether within or outside of Belize shall be exempt from stamp duty.

Exemption from stamp duty.

37. The licensee and any international banking business conducted by and in accordance with a licence granted under this Act shall be exempt from any currency and exchange control restrictions or regulations under the Exchange Control Regulations, 1976, published in Subsidiary Legislation 1991 Edition, Volume 1, Chapter 43 at page 2.

Exemption from currency and exchange control.

38.—(1) The provisions of Part VIII of the Banks and Financial Institutions Act, Cap. 263, shall apply *mutatis mutandis* to the winding-up and dissolution of licensees under this Act.

Winding-up and dissolution of licensees.

(2) The courts of Belize shall have jurisdiction in every such winding-up and dissolution.

39. The provisions of Part IX of the Banks and Financial Institutions Act, Cap. 263, regarding abandoned property, shall apply *mutatis mutandis* to the disposition of abandoned property by licensees under this Act.

Abandoned property.

PART VIII

Miscellaneous

40. Every person who commits an offence against this Act or any regulations made thereunder for which no penalty is specifically provided is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and, if the offence is a continuing offence, to a further fine not exceeding one thousand dollars for every day during which the offence continues.

General penalty for offences.

Fines, etc., to be placed to the credit of the Central Bank. 34 of 2002.

41.—(1) All fines, forfeitures and penalties recovered or incurred under this Act or regulations made thereunder shall be placed to the credit of the Central Bank.

34 of 2002.

(2) Where the Central Bank is empowered under this Act to impose a fine or other penalty for failure to comply with any provisions of this Act or any regulations made thereunder, the Central Bank may, without prejudice to any other remedies available to it under the law, recover such fine or other penalty from the deposit maintained by the licensee with the Central Bank under section 21A of this Act.

Authority for prosecutions.

42. No prosecution in respect of any offence committed under this Act or regulations made thereunder shall be instituted except by, or with the consent in writing of, the Central Bank or the Director of Public Prosecutions.

Limitation of proceedings.

43. All prosecutions, actions, suits, or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or regulations made thereunder, shall be brought within five years next after the date of the offence committed or the cause of action accrued.

Civil remedies not affected.

44. Nothing in this Act shall affect any civil remedy that any person may have against a licensee in respect of any matter.

Regulations.

45.—(1) The Central Bank may, from time to time, with the approval of the Minister, issue such orders, directives, circulars or make such regulations prescribing all matters and things required or authorised by this Act to be prescribed or provided for, or which are necessary or convenient for the carrying out of, or the giving full effect to the provisions of, this Act.

(2) All regulations made under this Act shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.

Indemnification.

46. Neither the Central Bank, nor any examiner or person responsible for the administration of this Act, shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of their respective functions under this Act or any regulations made thereunder, unless it is shown that the act or omission was in bad faith.

47. In the event that any act or step is required or permitted to be done under this Act, and no form is prescribed or procedure laid down in this Act or regulations made pursuant to this Act for doing the same, the Central Bank, after consultation with the Minister, may in response to application made to it, or on its own motion, give directions as to the manner in which the same may be done, and any act or step done or taken in accordance with its directions shall be a valid performance of such act or step.

Procedure where none is laid down.

48.—(1) Every document filed with the Registrar of Companies or the Central Bank, and all records and accounts required to be kept under this Act shall be in the English language.

English to be the authentic text.

(2) Where a document is not in the English language it shall be accompanied by an authentic English translation and in the event of any conflict in meaning between the foreign language and the English version, the English version shall prevail.